

REMARKS

Claims 12-17 are in the case and presented for consideration.

Claims 1-11 and 18-20 have been cancelled without prejudice to Applicants' right to pursue the cancelled subject matter in a continuing application.

Claim 12 has been rewritten as an independent claim and to recite the features of claim 1. Claims 13-17 have been amended to make clarifying editorial changes. Accordingly, no new matter has been added.

Rejection Under 35 U.S.C. § 103

Claims 12 and 14-16 are rejected under 35 U.S.C. § 103 as obvious over WO 95/04102 of Devro in view of U.S. Patent 3,779,285 to Sinibaldo. The reasons for the rejection are stated on pages 3-4 of the Office Action. The rejection is respectfully traversed.

The Office Action states:

Devro teaches a method of perforating a flat film based on collagen using a laser (page 4) having "circular" holes (page 4, line 9), which would meet the claimed ellipticity of Claim 1 (a circle would have a ellipticity of zero).

The Office acknowledges that Devro does not teach a process which results in a film having the spacing of holes claimed in claim 1. The Office however asserts that the spacing would have been prima facie obvious over Sinibaldo "who teaches when forming the holes in food casings, the formed perforations should be spaced apart from each other in a configuration at a distance of at least about 50 times greater than the diameter of the formed perforations (4:16-31)."

The Office further states:

Devro's hole size of 0.1 mm to 0.9 mm (page 4, lines 10-20) taken in view of Sinibaldo's teachings would have suggested a hole spacing of about 5 mm to about 45 mm ($0.1 \times 50 = 5$, $0.9 \times 50 = 45$).

The Office then concludes that "it would have been prima facie obvious... to incorporate the method of Sinibaldo into that of Devro in order to space the

perforations of Devro far enough apart to avoid degrading the mechanical strength of the film.”

Applicants respectfully disagree and maintain that it would not have been *prima facie* obvious to incorporate the method of Sinibaldo into that of Devro, since first, the method of Sinibaldo describes a process for perforating tubular food casing and not a flat film, and second Sinibaldo’s tubular food casings are obtained from regenerated cellulose and can have fibrous webs embedded in them to impart greater wall strength to them (col. 1, lines 12-17), and do not consist of collagen.

Thus, it is respectfully submitted that the skilled person would not have found any motivation to incorporate Sinibaldo’s method into that of Devro with a reasonable expectation of success in producing a multiperforated collagen film as claimed in claim 12, with sufficient mechanical strength and extensibility to withstand the conditions of industrial conventional food processing steps. In other words, the skilled person at the time the invention was made, would have found no motivation to transfer the teachings in relation with the perforations of Sinibaldo, to the method of Devro, since Sinibaldo refers to a tubular food casing of cellulose, e.g., of a very different form and nature, with very different chemical and physical properties.

Accordingly, it is believed that independent claim 12 recites patentable subject matter, and withdrawal of the rejection of claim 12 is respectfully requested. With regard to the dependent claims, these claims ultimately depend from independent claim 12, which has been shown not to be obvious, and, hence, allowable, over the cited references. Accordingly, the remaining dependent claims are also allowable by virtue of their dependence from an allowable base claim.

Applicants have endeavored to make the foregoing response sufficiently complete to permit prompt, favorable action on the subject patent application. In the event that the Examiner believes, after consideration of this response, that the prosecution of the subject patent application would be expedited by an interview with an authorized representative of the Applicants; the Examiner is invited to contact the undersigned at (845) 359-7700.

Applicants respectfully submit that by this Amendment, the application is believed to have been placed in condition for allowance and such action is respectfully requested.

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